he was willing to treat the constitutional issue as *res adjudi-cata.* More surprising is the fact that Calhoun, in later years the hair-splitting logician of strict construction and the champion of nullification, was found foremost among the supporters of the charter of the second bank. He reported the bill to the House and suggested that if the bank by its financial policy was unable to compel the State banks to return to specie payments, Congress might resort to stronger measures, which were within their power. Both Calhoun and Webster favored the refusal by the government of the notes of suspended banks and the collection of all government dues in specie.[1] Webster secured an amendment to the bank bill, requiring the payment of deposits as well as notes in specie, subject to a forfeit of twelve per cent, on the amount for which specie payment was refused.

The constitutional question had thus been decided by the legislative branch of the government before it reached the Supreme Court in 1819. That court, in the celebrated case of McCulloch vs. Maryland, in which the decision was rendered by Chief-Justice Marshall, decided that the power to create a national bank, to assist in carrying on the fiscal operations of the government, was within the implied powers of the Constitution. Equally important was the decision upon the direct issue raised in that case, whether the States could constitutionally levy taxes upon the circulating notes or the property of a national bank. Representative Fiske of New York, in a strong speech in favor of the renewal of the first charter in 1811, declared that the States, in order to give the preference to their own paper, might exclude that of any other State from circulation within their limits by taxation.[2] He did not suggest that they might pursue the same policy towards the notes of a national bank, but this position was taken by the State of Maryland towards the notes of the second Bank of the United States, and the case was carried to the Supreme Court. A decision in favor of the right of the States to have taxed the circulating notes of

[1] White, 27&

[2] Bolles, IL, 150.